IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWELFTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

-

WRIT PETITION NO : 18599 of 2004

Between:

N. Shankar, S/o. Lakshamaiah,
R/o. H.NO. 8-114, Besides Sivalayam, Yadagirigutta, Nalgonda District.

..... PETITIONER

AND

1 The Regional Manager, APSRTC,

Nalgonda Region, Nalgonda District.
2 The Depot Manager, APSRTC,

Yadagirigutta Bus Depot, Nalgonda District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction or writ more particularly one in the nature of Writ of Mandamus declaring the action of the respondent not paying the salary to the petitioner by computing the national increments from the date of termination to fill the date of reinstatement (i.e., w.e.f. 25-04-1993 to 4-6-2000) as illegal, arbitrary and unjust and consequently direct the respondent to pay the salary to the petitioner by computing the national increments from the date of termination to till the date of reinstatement (i.e., w.e.f. 25-04-1993 to 4-6-2000).

Counsel for the Petitioner: MR.G.RAVI MOHAN

Counsel for the Respondents: MR.V.T.M.PRASAD

The Court at the stage of admission made the following :

ORDER:

The petitioner is working as a Tyre Mechanic in the respondent –Corporation. He was removed from service through the proceedings dated 24-12-1988 on the allegation of misconduct. He filed I.D.No.187 of 1998 and the Labour Court passed an award on 14-12-1999 ordering his reinstatement with continuity of service and without back wages. In pursuance of the award of the Labour Court, he was reinstated on 04-06-2000, but the order regarding the continuity of service was not implemented by the respondents. The petitioner made several representations, but they were not considered. Therefore, the petitioner approached this Court through this writ petition seeking a direction to the respondents to add the notional increments for out of service period and to fix his salary accordingly from the date of the reinstatement into service.

The award passed by the Labour Court indicates that on reinstatement, the petitioner is entitled for continuity of service, but the respondents appeared to have not implemented the said order by working out the notional increments for out of service period. A division Bench of this Court in "***REGIONAL MANAGER, A.P.S.R.T.C., NIZAMABAD V. B. CHANDER RAO"*** held that an employee is entitled for notional increments in pursuance of an order of the Labour Court extending the benefit of continuity of service. The Division Bench while rendering the above decision distinguished a judgment of the Supreme Court in "***A.P.S.R.T.C. AND ANOTHER v. S. NARSA GOUD***"[1] wherein the Supreme Court held that the employee is not entitled for increments for the period of his unauthorized absence unless the same is regularized. The present case is on the lines of the case covered by the judgment of the Division Bench.

In the light of the above circumstances, the petitioner is entitled to get the notional increments fixed for out of service period for the purpose of fixation of his pay from the date of reinstatement.

In the result, the Writ Petition is allowed. The respondents are directed to fix up the pay of the petitioner from the date of his reinstatement by working out the notional increments for the period from the date of termination till the date of reinstatement within eight weeks from the date of receipt of a copy of this order.

Dr. G. Yethirajulu, J.

Dt:12th October, 2004.

Rns.

To

1 The Regional Manager,

APSRTC, Nalgonda Region,

Nalgonda District.

2 The Depot Manager,

APSRTC, Yadagirigutta Bus Depot,

Nalgonda District.

3 Two CD copies.